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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1429 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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HIRACHAND HASTIMAL RANAVAT

Versus

STATE OF GUJARAT

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Appearance:

MR SH SANJANWALA for Petitioner

Mr.Kamal Mehta, ASSTT.GOVERNMENT PLEADER for Respondents

No. 1 and 2.

NOTICE SERVED for Respondent No. 3

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CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 17/06/1999

ORAL JUDGEMENT

The petitioner has invoked the jurisdiction of this Court under Articles 226 and 227 of the Constitution. The prayer is to quash the order dated 27.9.1985 passed by the Secretary (Appeals), Revenue Department, State of Gujarat (Annexure`G'), in exercise of powers under Article 211 of the Bombay Land Revenue

Code ("Code" for short) and restore the order No.LND/73AA/RG/14/83 dated 30.6.1983 passed by the Deputy Collector, Valsad.

The petitioner wanted to purchase land belonging to respondent No.3 for the purpose of establishing a cement industry. Since the respondent No.3 was a tribal, it was necessary to obtain permission from the competent authority under Section 73AA of the Code. The petitioner, therefore, made the application for permission to the Deputy Collector, Valsad and the Deputy Collector, after satisfying himself about the market-price of the land and other relevant factors, granted permission to sell the land by his order dated 30.6.1983. The order shows that the market price was Rs.15,000/- and Rs.7500/- was ordered to be paid as premium at 50 per cent of the market price. According to the petitioner, he paid the full consideration to the owner and also paid the amount of premium and bore the expenses of stamp duty and registration of the sale deed.

However, in January 1985, the Secretary (Appeals), Revenue Department, issued a notice to the petitioner and the respondent No.3, who was the owner of the land, to show cause why the order of the Deputy Collector should not be taken in revision under Section 211 of the Code on the grounds stated in the show cause notice. According to the petitioner, both he and the respondent No.3 filed reply to the show cause notice. At the hearing, written arguments were submitted on behalf of the owner, a copy of which is produced at Annexure 'F' to the petition.

The Special Secretary, however, by his impugned order, set aside the order of the Deputy Collector for the reasons stated in his order and remanded the matter to the Deputy Collector for reconsideration. The order shows that a contention was advanced before the Secretary that the revisional power should not be exercised after such a long period, but the said contention was not considered by the Secretary.

The petitioner thereupon filed the present Special Civil Application, which was admitted on 12.3.1986 and stay of the impugned order was granted during the pendency of the petition. This petition was ordered to be heard along with Special Civil Application No.438 of 1986.

It appears that Special Civil Application No.438/86 came up for final hearing on 9.4.1996 before

A.N. Divecha,J., who, by his judgment dated 9.4.1996, allowed the said petition and quashed a similar order passed by the Special Secretary (Appeals) dated 27.9.1985 in the said case. The judgment shows that it was contended before the learned Judge that revisional powers under Section 211 of the Code ought to be exercised within reasonable period and as the said powers had been exercised beyond the reasonable period of one year, the order was liable to be set aside. The learned Judge, after considering the settled legal position on this point, accepted the said contention and quashed the order of the Special Secretary (Appeals). That was also a case of sale of land belonging to an Adivasi and the facts were similar. If this petition had been placed for hearing along with the said petition, there is no doubt that the learned Judge would have allowed the present petition on the same ground because there is no point of distinction between the two cases. In the circumstances, the present petition also deserves to be allowed on the ground that revisional powers under Section 211 of the Code were sought to be exercised beyond a reasonable period. In the circumstances, it is not necessary to go into the merits of the case. The petition is, therefore, allowed. The order passed by the Special Secretary (Appeals), Revenue Department, at Annexure `G' to this petition, is quashed and set aside and the order passed by the Deputy Collector, Valsad on 30.6.1953 (Annexure `A') is restored. Rule is accordingly made absolute with no order as to costs.

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